

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25118 of 2015

Date of decision: 08.07.2016

Society for Modern Education

.....Petitioner

Versus

The National Council for Teachers Education & othersRespondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Rajiv Atma Ram, Sr.Advocate
with Mr.Arjun Pratap Atma Ram, Advocate, for the petitioner.
Mr.Ashish Rawal, Advocate, for respondents No.1 & 2.
Mr.Amit Rao, Advocate, for respondent No.3.
Mr.Prikshit Dhull, Advocate, for
Mr.Tribhuvan Dahiya, Advocate, for respondent No.4.

G.S.Sandhawal J.

Petitioner-Society challenges the order dated 10.06.2015 (Annexure P12) passed by the respondent No.2-Northern Regional Committee whereby its request for grant of recognition to the college of Modern Education for the B.Ed Course with an intake of 100 students has been declined under Section 14/15 (3)(b) of the National Council of Teachers Education Act, 1993. The said order has been upheld in appeal on 10.11.2015 (Annexure P16) by the Appellate Authority, which is also subject matter of challenge. The proposal for issuing show cause notice by

respondent No.2 on 30.03.2015 (Annexure P10), which was eventually issued on 30.04.2015 (Annexure R1/15) is also subject matter of challenge.

The ground for the said denial is that the plot number and the building plan mentioned in the hard copy does not match with the on-line application and the built up area, as mentioned in the hard copy of the on-line application is 2000 Sq.mts. whereas the visiting team report the area is 1690 sq.mts. The building plan submitted with the signed application also does not match with the one submitted by the visiting team. Similarly, the appellate order also notices that the khasra number filled in the application form was 408 and the building plan also pertains to the said number. Therefore, submitting the land documents for khasra No.401, cannot be accepted. Resultantly, on account of the inadequate size of the multi-purpose hall, non submission of the sanctioned building plan, issued by the competent authority and on the ground that documents were having different khasra numbers, the refusal order was upheld.

Learned Senior Counsel for the petitioner-Society, accordingly, has submitted that request had been made for correction of the plot number, which is 401 on which the building stands constructed. Even the affidavit had been given regarding the said fact while replying to the show cause notice and on account of clerical error, the petitioner cannot be non-suited on this ground. It is further submitted that the registration team also noticed that the building was constructed on plot No.401 and therefore, the orders are not sustainable. The petitioner had applied for the permission since the year 2012 and thus, would be seriously prejudiced on account of such minor irregularity and illegality, as such, which could have been easily rectified by

examining the sale deed in question dated 04.10.2012 and getting the site demarcated by the revenue authorities.

Mr.Rawal, counsel for respondents No.1 & 2, on the other hand, submitted that the order is justified as the petitioner-Society had been put to notice but had failed to rectify the defects and therefore, there is no scope for interference. It is submitted that three different building plans submitted by the petitioner have been attached with the written statement as Annexures R1/16, R1/17 and R1/19. It is pointed out that neither the same were got sanctioned by the competent authority nor they were of the requisite requirement. Annexure R1/17 is also referred to show that rather cutting had been done pertaining to khatoni No.401 which had been converted to khatoni No.408 and thus, the orders passed were liable to be sustained.

After hearing counsel for the parties, this Court is of the opinion that the dispute can be resolved by remanding the matter to respondent No.2-Committee for fresh consideration on the above noted issues. It is not disputed that in pursuance of the 233rd meeting of the respondent No.2 (Annexure P10) a decision had been taken to issue show cause notice to the petitioner-Institute on 4 accounts. Resultantly, show cause notice dated 30.04.2015 (Annexure R1/15) was issued, pointing out the following discrepancies:

- VT report (dated 22.03.2014) reveals that the size of the multipurpose hall is only 500 sq.fts.
- The total built-up area as mentioned in the hard copy of the on-line application dated 24.12.2012 is 2000 sq.mts., whereas the VT report mentions the total built-up area as 1690 sq.mts. The map of existing plan for the College of Modern Education (B.Ed.) submitted by the applicant institution shows that the total covered area is 3009 sq.mts.

- Plot number of the land has been mentioned on 408 in the on-line application, whereas it has been mentioned on 401 in the Sale deed dated 04.10.2012.
- Building Completion Certificate duly approved by the Competent Authority (in the format prescribed by the NRC, NCTE) has not been submitted by the applicant institution.

The petitioner-Institute, accordingly, gave the reply on 13.04.2015 (Annexure P11) that the plot of land was erroneously filled as No.408 on-line whereas in actual, it is No.401. It was also justified that the multi-purpose hall which is complete was 2160 sq.fts., as approved by the competent authority and the photographs were attached. The total built up area on the ground floor is stated to be 1690 sq.mts. and the building completion plan had been duly sanctioned by the competent authority. The documents along with the affidavits were enclosed. A perusal of the affidavits of the authorized representative, Shri Anil Yadav would also go on to show that it was specifically mentioned that the size of the hall was 2160 sq.fts. and the number of the plot of land was 401 instead of 408. Prayer was, accordingly, made for the amendment of the plot number which had been erroneously given. The building completion certificate which had been appended would go on to show that the plot was situated in khewat No.356 khatoni No.401 mustil No.34/47 of Village Berli Kalan, Post Office Musepur, District Rewari and the plot number was also mentioned as 401. The building plan had been approved by the Panchayat and the area of construction was of December, 2012.

Keeping in view the reply, respondent No.2 declined recognition on the following grounds:

- Plot no. and building plan does not match with mentioned on hardcopy of online application submitted by the institution.
- Total built-up area as mentioned in the hard copy of online application is 2000 sq.mts. whereas the VT report mentions the total area of 1669 sq.mt. The map of existing plan submitted by the institution shows the covered area 3009 sq.mts. The building plan submitted with signed application does not match with submitted to VT.

The petitioner, thereafter, approached this Court vide CWP-2471-2015 and was relegated to the remedy of appeal, vide order dated 26.08.2015 (Annexure P13). In the appeal, the petitioner took the plea that inspection had been carried out in plot No.401 and not in plot No.408 and there was an error in submitting the on-line application. Regarding the lack of covered area, it was submitted that it has the built up area of 1690 sq.mts. on the ground floor and 1318 sq.mts. on the first floor, which was above the requirement. The visitation team had been provided the copy of the latest building plan and the petitioner had made substantial physical development in the infrastructure and thus, discrepancy had arisen.

It is not disputed that admittedly, as per the certificate dated 28.03.2013, issued by the Principal Secretary of High Education Department of the Haryana Government under Section 2 (ca) of the National Commission for Minority Educational Institutions, 2004, the petitioner claims to be a minority institution. The petitioner-Institute had applied in 24.12.2012 (Annexure P2) and was also granted the letter of intent under Clause 7(13) of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 by the respondent No.2 on 18.02.2015 (Annexure P8). As per the application, there is a

cutting also as to the plot number whether it is 401 or 408 and in one place, specific number has been mentioned as 408 only. The area of land in possession has been mentioned as 3200 sq.mts. and the built up area is 2000 sq.mts. and the date of completion of building was mentioned as 10.10.2012 with the name of the competent authority for approval of the building plan being the Gram Panchayat. The total built up area has been mentioned as 21528 sq.ft.

As per the visitation report of respondent No.2 dated 22.03.2014 (Annexure P3), the plot number is mentioned as 401 and there is also mention of the sale deed dated 04.10.2012, as per the general information provided relating to the infrastructural and instructional facilities, as per clause 3. As per clauses 6 & 7 also, reference has been made to the permission for conversion of the land from the competent authority from the District Town Planner on 11.09.2013 and for the conversion of the land for the change of land use of khasra No.356 measuring 5 kanals 16 marlas, as per the sale deed dated 04.10.2012. The total land area has been mentioned as 3009 sq.mts., as per the approved building plan and as per the building completion certificate, the same is 2965 sq.mts. whereas the built up area is 16905 sq.ft. Reference has also been made in Clause 12 of the building completion certificate by the registered Architect counter-signed by the Sarpanch for the said built up area, in which total land area has been mentioned as 3009 sq.mts. and built up area of 1690 sq.mts. As per the visitation team, the site plan shows the location of the building as per the land and the revenue record of the concerned authorities and the building use certificate and permission to construct. The recommendation had also been made to

grant permission with the condition that the intervening walls between the 2 rooms be removed to create space for the big multi-purpose hall and for the library.

In such circumstances, this Court is of the opinion that the matter needs to be revisited by respondent No.2 to assess whether the grounds for rejection can stand or not, in view of the explanation given by the petitioner. The said Committee will, accordingly, depute a fresh visitation team to visit the premises in question, after giving show cause notice and informing the date of the visit to the petitioner. The visiting team will, accordingly, examine the sale deed dated 04.10.2012 in question and confirm the fact whether the building in question is constructed on plot no.401, as is now contended by the petitioner-Institute and as per the affidavits of the authorized representative. It will be open to the inspecting team to seek the help of the local revenue authorities to provide the necessary information.

It will also be open to the petitioner-Institute to get the demarcation done from the local authorities of which the Tehsildar of the District will facilitate, to give a report that the building in dispute is constructed on the plot in question, namely, no.401, as per the sale deed dated 04.10.2012. The visitation team will also take into consideration the fact that whether the objections which had been raised in the show cause notice have been duly removed, as has been contended and give its report, accordingly. The petitioner-Society will also give its explanation as why the building plan do not match as per the reasons given by respondent No.2, in its order dated 10.06.2015 (Annexure P12). It will be open to the petitioner-Society to also give details of the built up area,

which is now available to the visitation team as a dispute has also arisen

as the Society has the built up area, as per the requirement. On the receipt of the said report of the visitation team, respondent No.2 will take a fresh decision. The necessary exercise be completed, preferably, by 31.08.2016, since the matter has been hanging fire as the petitioner had applied for permission for the academic session 2014-15.

Resultantly, the impugned orders dated 10.06.2015 (Annexure P12) and 10.11.2015 (Annexure P16) are set aside and the present writ petition is partly allowed with the above said directions.

08.07.2016

Sailesh

(G.S.Sandhawalia)

JUDGE